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FEDERAL COMMUNICATIONS COMMISSION

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DOCKET FILE COPY ORIGINAL

Howard J. Symons

February 10, 1994

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Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

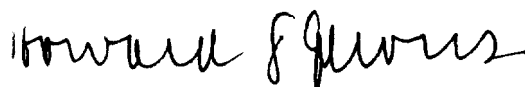
Re: Ex Parte Presentation
MM Docket No. 92-266 (Cable Rate Regulation)

Dear Mr. Caton:

On February 10, 1994, Cablevision Systems Corporation sent a letter to Commissioner Quello regarding the above-captioned docket. Two copies of that letter are attached.

Please direct any questions regarding the foregoing to the undersigned.

Sincerely,



Howard J. Symons

Enclosure

cc: Honorable James H. Quello
Ms. Maureen O'Connell

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CABLEVISION

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Honorable James H. Quello
Federal Communications Commission
1919 M St., N.W.
Washington, D.C. 20554

Dear Commissioner Quello:

I greatly appreciated the opportunity you provided to Charlie Ferris and me last week to discuss the Commission's rate regulation docket and the issues raised by the unbundling of cable programming services.

As we discussed, the Commission's treatment of packages of unbundled programming services is critically important both to Cablevision and our subscribers. For four years, Cablevision has been offering many of its subscribers the opportunity to select "clusters" of programming, such as news services and movie services, as an alternative to purchasing an entire service tier. Recently, we began to give subscribers the option of purchasing "any 6" and "any 8" programming services at a discount from among a menu of a la carte choices -- enabling subscribers to design customized programming packages containing only the services they want. The consumer benefits of such an offering are beyond dispute.

The company's decision to unbundle program services was not motivated by regulation; we began to move in this direction long before passage of the 1992 Cable Act. Instead, our decision was prompted by the simple fact that unbundling significantly expanded consumer choice. By giving our subscribers greater freedom to design their own program packages, unbundling enables them to pay only for those services in which they are most interested.

This enhanced consumer sovereignty has pleased our subscribers and yielded tangible benefits for Cablevision. It helped diminish churn, expand penetration, and ensure a closer fit between programming costs and subscriber demand for services. Even subscribers who did not purchase any clusters were more satisfied with the price they paid for their service, knowing they had the cluster option if they chose. More recently, Cablevision has introduced its "Spectrum" service, offering subscribers the opportunity to select individual services at \$1.95 per month, or "any 4" at \$4.95. On Long Island, more than 40% of subscribers offered Spectrum are now receiving individual channels or the do-it-yourself package.

Congress clearly grasped the pro-consumer benefits of unbundling, as evidenced by its decision to exempt a la carte services from regulation. Unfortunately, full realization of those benefits is being thwarted by those cable programmers who continue to insist on carriage agreements that constrain an operator's ability to unbundle their program channel. A rule preempting such agreements would further expand consumer choice and reduce upward pressure on cable rates by exposing more programmers to market forces.

On the other hand, subjecting discounted packages of a la carte services to some form of rate regulation would greatly discourage unbundling and shrink consumer benefits. For instance, our ability to offer the innovative "any 6" or "any 8" options described above depends upon the Commission's willingness to continue to permit unregulated package discounts. It would be impossible to permit subscribers to design their own package of services if each such package -- dozens or hundreds of them -- were then treated as a regulated tier of cable programming services subject to rate regulation.

Package discounts are as old as retailing itself. In part, such discounts reflect a simple economic fact of life: per-unit service costs decline as volume increases. Therefore, the retailer shares some of the benefits of those efficiencies with the customer. The discount also may reflect a reward to the consumer for increasing the retailer's sales volume.

On the other hand, the subscriber who decides to select only one or two individual a la carte offerings raises a cable operator's average per-unit service costs. The higher price for individual offerings should reflect those higher costs, and the fact that the subscriber receives the full benefit of the operator's capital investment in the interdiction or encryption equipment and other technology necessary to unbundle individual program channels. The rate for an individual service should also reflect the value of the greater degree of specialized choice being offered by the operator. Thus, it should come as no surprise that the per-channel price of an a la carte offering varies depending upon whether it is taken on a standalone basis or in a package.

We recognize that the Commission has raised concerns about the way in which some operators have offered discounted packages of unbundled services offered, but a blanket reversal of the Commission's previous endorsement of unregulated package discounts would be wholly counterproductive. Some consumers of a la carte services will pay higher prices or receive fewer services as a result of a policy change that restricts or discourages discounted packages of unbundled services. In other

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cases, some unbundled channels might be repositioned into a cable programming service tier, meaning that some subscribers will be forced to pay higher rates for channels they already had decided they did not want. In addition, restricting or eliminating unregulated package discounts might discourage some operators from undertaking infrastructure upgrades that facilitate unbundling. All of these outcomes would hurt both operators and subscribers, and undermine policy objectives articulated by Congress and the Commission.

Cablevision's experience demonstrates that offering discounted packages of unbundled services can benefit both consumers and operators. In those instances in which operators are using package discounts to evade the rate rules, the Commission has ample authority to act on a case-by-case basis to deter such practices. We believe the Commission would err by adopting an across-the-board policy premised on the notion that such package discounts inherently conflict with the interests of consumers. However, if the Commission feels compelled to adopt some kind of uniform policy regarding package discounts, it could devise a formula establishing a permissible ratio (or range of ratios) between the stand-alone and the package price of an unbundled program service.

We urge the Commission to let all cable subscribers reduce the price they pay for cable services to whatever level they wish by making it possible for them to buy all channels individually and to reject any service they do not wish to receive.

Thank you again for the chance to discuss these issues.

Sincerely,



Charles F. Dolan